

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et
al.*,

Debtors.¹

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO

Debtor.

PROMESA

Title III

No. 17 BK 3283-LTS

Re: ECF No. 1065-1

(Jointly Administered)

PROMESA

Title III

No. 17 BK 3283-LTS

**This Stipulation relates only to
the Commonwealth and shall
only be filed in the lead Case No.
17 BK 3283-LTS**

**STIPULATION MODIFYING THE AUTOMATIC STAY BETWEEN
THE COMMONWEALTH OF PUERTO RICO AND
JOSE ORBI AND JOSE ORTIZ BIBILONI**

This stipulation (the “Stipulation”) is made as of October 10, 2017, by and between the Commonwealth of Puerto Rico (the “Commonwealth”) and José Orbi and José Ortíz Bibiloni (collectively, the “Movants”).²

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); and (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

² The Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the Debtors’ representative pursuant to section 315(b) of the Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”), has authorized the Department of Justice to file this Stipulation on behalf of the Commonwealth.

RECITALS

WHEREAS, on May 9, 2017, the Commonwealth, by and through the Oversight Board, as the Commonwealth's representative pursuant to PROMESA section 315(b), filed a petition with the United States District Court for the District of Puerto Rico (the "District Court") under title III of PROMESA (the "Title III Case");

WHEREAS, on August 17, 2017, the District Court entered the *Order Amending Case Management Procedures* (the "Case Management Order"), which revised the *Notice, Case Management and Administrative Procedures* to implement a protocol (the "Lift Stay Protocol") for filing motions for relief from the automatic stay set forth in Bankruptcy Code sections 362(a) and 922(a), made applicable to the Title III Case by PROMESA section 301(a) (the "Title III Stay") [ECF No. 1065];

WHEREAS, under the Lift Stay Protocol, Movants are required to (a) send notice (the "Lift Stay Notice") to counsel to the Oversight Board and the Puerto Rico Fiscal Agency and Financial Advisory Authority ("AAFAF") to advise them of Movants' intent to seek relief from the Title III Stay at least fifteen (15) business days prior to filing a motion seeking such relief (the "Lift Stay Notice Period") and (b) meet and confer with the Commonwealth during the Lift Stay Notice Period;

WHEREAS, on August 23, 2017, Movants sent their Lift Stay Notice to the Oversight Board and AAFAF seeking to lift the Title III Stay to proceed with the civil action against the Municipality of San Juan under the following caption: José Orbi and Jorge Ortiz v. Municipality of San Juan and the Commonwealth of Puerto Rico, Case No. SJ2017CV00058, Court of First Instance, San Juan Branch, whereby Movants are seeking compensatory damages from the Municipality of San Juan and the Commonwealth for damage to their house (the "State Court Action"); and

WHEREAS, during the Lift Stay Notice Period, the Commonwealth and Movants met and conferred and have resolved Movants' request for relief from the Title III Stay.

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the Commonwealth and Movants, through their counsel, each of whom represent and warrant they possess the requisite authority to bind the respective parties hereto, as follows:

14. The Title III Stay is hereby modified solely to the limited extent necessary to allow Movants to proceed with the State Court Action solely against the Municipality of San Juan; provided, however, that the Title III Stay shall continue to apply with respect to any claims asserted by Movants against the Commonwealth.

15. Nothing contained in this Stipulation shall operate as a waiver or modification of the Title III Stay so as to permit the prosecution of any claim against the Commonwealth or any of the other Title III debtors, and the Commonwealth reserves all rights, defenses, and protections with respect to any matters pending in the Title III Case.

16. The Commonwealth and Movants represent and warrant that they are properly and fully empowered to enter into and execute this Stipulation; that they know of no contractual commitment or legal limitation of, impediment to, or prohibition against their entry into this Stipulation, and that the Stipulation is legal, valid, and binding upon them.

17. Neither this Stipulation, nor the settlement provided for herein, nor any statement made, action, or position taken, or document prepared or executed in connection with the negotiation, execution, or implementation of this Stipulation shall be deemed to be, or construed as, (a) an admission by any party of any liability, wrongdoing, act, or matter or that any claim or defense has or lacks merit; (b) a waiver of the Commonwealth's rights to dispute, contest, setoff, or recoup any claim, including any claims asserted by Movants in the State Court Action, or assert

any related rights, claims, or defenses and all such rights are reserved; or (c) an approval or assumption of any agreement or contract between the parties under Bankruptcy Code section 365.

18. This Stipulation contains the entire agreement by and between the parties with respect to the subject matter hereof, and all prior understandings or agreements, if any, are merged into this Stipulation.

19. This Stipulation shall be construed and interpreted in accordance with the laws of Puerto Rico. For purposes of construing this Stipulation, neither of the parties shall be deemed to have been the drafter of the Stipulation.

20. Electronic copies of signatures on this Stipulation are acceptable, and an electronic copy of a signature on this Stipulation is deemed an original. This Stipulation may be executed in counterparts, each of which is deemed an original, but when taken together constitute one and the same document.

21. This Stipulation may not be modified other than by a signed writing executed by the parties hereto.

22. The District Court shall retain jurisdiction to hear any matters or disputes arising from or relating to this Stipulation.

23. This Stipulation shall be immediately effective and enforceable upon approval by the District Court.

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IN WITNESS WHEREOF and in agreement herewith, by and through their counsel, the parties have executed and delivered this Stipulation as of the date first set forth above.

In San Juan, Puerto Rico, this 10th day of October, 2017.

WANDA VÁZQUEZ GARCED
Secretary of Justice

/s/ Wandymar Burgos

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Attorneys for Movant

SO ORDERED.

Dated: October 18, 2017

/s/ Laura Taylor Swain

HONORABLE LAURA TAYLOR SWAIN
UNITED STATES DISTRICT JUDGE